

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Yanjiao Chen	Team: Team # 3	CCRB Case #: 201209429	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 07/21/2012 1:50 AM	Location of Incident: In the vicinity of § 87(2)(b) [REDACTED] inside the 75th Precinct stationhouse	Precinct: 75	18 Mo. SOL 1/21/2014	EO SOL 1/21/2014	
Date/Time CV Reported Sat, 07/21/2012 5:17 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 07/21/2012 5:17 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Robert Martinez	01369	922716	075 PCT
2. POM David Pralgo	23516	916465	075 PCT
3. POM Anthony Donaldson	08286	941671	075 PCT
4. Officers			Unknown
5. An officer			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Radoslaw Terepka	14042	926200	075 PCT
2. POM Gregg Minardi	04986	940475	075 PCT
3. POF Genine Oneill	02772	946070	075 PCT
4. POF Christina Oconnor	05510	939832	075 PCT
5. POM Nicholas Muro	15537	924225	075 PCT
6. POM Kurt Klenke	10852	940337	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: In the vicinity of § 87(2)(b) [REDACTED] in Brooklyn, officers stopped § 87(2)(b) [REDACTED] and individuals.	[REDACTED]
B. Officers	Abuse: In the vicinity of § 87(2)(b) [REDACTED] in Brooklyn, officers frisked § 87(2)(b) [REDACTED] and individuals.	[REDACTED]
C.SGT Robert Martinez	Force: In the vicinity of § 87(2)(b) [REDACTED] in Brooklyn, Sgt. Robert Martinez used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.POM David Pralgo	Force: In the vicinity of § 87(2)(b) [REDACTED] in Brooklyn, PO David Pralgo used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Anthony Donaldson	Force: In the vicinity of § 87(2)(b) [REDACTED] in Brooklyn, PO Anthony Donaldson used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
F. An officer	Abuse: At the 75th Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b)	

Case Summary

On July 21, 2012, § 87(2)(b) filed this complaint with the CCRB via the call processing system. On the same day, § 87(2)(b) and § 87(2)(b) filed separate duplicate complaints about this incident with the CCRB via the call processing system. On the same day, § 87(2)(b) filed a duplicate complaint with the IAB via telephone, generating IAB Log No. 12-39032. The aforementioned complaint was forwarded to the CCRB on August 1, 2012. On July 24, 2012, a man identified by the 911 call as § 87(2)(b) filed a duplicate complaint about this incident with IAB, generating IAB Log No. 12-39486. The aforementioned complaint was forwarded to the CCRB on July 27, 2012.

On July 21, 2012, at around 1:50 a.m., § 87(2)(b) was walking with five friends in the vicinity of § 87(2)(b) in Brooklyn when they were stopped by officers of an unknown precinct. Only a few minutes later, also in the vicinity of § 87(2)(b) § 87(2)(b) again encountered a different set of officers of the 75th Precinct speaking to his girlfriend § 87(2)(b) and the following allegations resulted:

Allegation A – Abuse of Authority: In the vicinity of § 87(2)(b) in Brooklyn, officers stopped § 87(2)(b) and individuals.

Allegation B – Abuse of Authority: In the vicinity of § 87(2)(b) in Brooklyn, officers frisked § 87(2)(b) and individuals.

§ 87(2)(g)

Allegation C – Force: In the vicinity of § 87(2)(b) in Brooklyn, Sgt. Robert Martinez used physical force against § 87(2)(b)

Allegation D – Force: In the vicinity of § 87(2)(b) in Brooklyn, PO David Pralgo used physical force against § 87(2)(b)

Allegation E – Force: In the vicinity of § 87(2)(b) in Brooklyn, PO Anthony Donaldson used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation F – Abuse of Authority: Inside the 75th Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b)

§ 87(2)(g)

This case was reassigned from Inv. Evelis Otero to the undersigned investigator on February 8, 2013.

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. He is a black man, who is 6'2" tall.

- § 87(2)(b) provided sworn testimony over the phone to the investigator as he was incarcerated at § 87(2)(b) at the time.

Statements to Medical Personnel

§ 87(2)(b) attended § 87(2)(b) on July 24, 2012 (enc. C-1 – C-2). He stated to the physician that “he was assaulted by NYPD with a flashlight,” sustaining several blows from this instrument, that he has mild pain, and that he had “loss of consciousness for 10 minutes” as witnessed by his sister.

CCRB Statement

§ 87(2)(b) was interviewed over the phone on March 19, 2013 (enc. C-4 – C-6). On April 1, 2013, the investigator received § 87(2)(b)'s signed and notarized verification statement following his telephone interview. § 87(2)(b)'s other phone statements from February 15 (enc. C-3), April 1 (enc. C-7), and October 11, 2013 (enc. C-8) were generally consistent with the phone interview, and which are all summarized below, with any differences noted.

On July 21, 2012, at around 1:50 a.m., § 87(2)(b) was walking from a corner near his residence at § 87(2)(b) in Brooklyn, with five of his friends, § 87(2)(b), § 87(2)(b), and § 87(2)(b) (last names unknown), when they were all stopped by ten unidentified uniformed officers who had received a call about someone in possession of a weapon. § 87(2)(b) could not provide any contact information for his five friends. Three of these officers commanded them to turn around and place their hands up against a fence. Each of the five individuals and § 87(2)(b) complied, and they were frisked from shoulders to feet, including the waistbands. The officers did not recover anything and let § 87(2)(b) and his friends go. There were 30 other uniformed officers present at this time.

§ 87(2)(b) split up from his friends and walked towards his car. When he did not see his child's mother, § 87(2)(b) there, he turned back towards his residence. About two houses away from his residence, he saw six plainclothes officers talking with § 87(2)(b). The investigation determined however that there were only five plainclothes officers – Sgt. Robert Martinez, PO David Pralgo, PO Anthony Donaldson, PO Radsolaw Terepka, and PO Gregg Minardi, all of the 75th Precinct. As § 87(2)(b) approached § 87(2)(b), PO Pralgo said to him, “I told you to get back.” § 87(2)(b) responded “Why are you being so aggressive,” and stated that the previous officers had not found anything on him. That was when PO Pralgo hit § 87(2)(b) in the face about three times with a closed, right fist. § 87(2)(b) stated that he was not doing anything physical before this act of aggression besides walking calmly towards § 87(2)(b). He responded to being hit by glaring angrily at PO Pralgo, giving no physical response. Afterwards, PO Pralgo wrapped his right arm around § 87(2)(b)'s neck in a chokehold, however it did not restrict the latter's breathing. This position lasted for about 30 seconds, during which time § 87(2)(b) kept pushing on PO Pralgo's hips with both hands to be released from the chokehold. Sgt. Martinez then swept § 87(2)(b)'s feet from under him so § 87(2)(b) landed on his right side on the ground. However, in a later phone statement, § 87(2)(b) described how he landed on his stomach and hands, and at no point did he hit his head during his process.

PO Terepka and PO Minardi also rushed over to the struggle, however, § 87(2)(b) could not see who was specifically doing what. An unidentified officer flipped § 87(2)(b) onto his stomach, put his knee on § 87(2)(b)'s back, and another unidentified officer kicked § 87(2)(b) in the head from behind. Although when questioned further, § 87(2)(b) stated he knew he was kicked with a foot because he was facing that direction and saw the foot coming towards him. He

was kicked a total of 4 times and from the first kick which caused a cut on the left side of his face, near the eye area. The officers were trying to get § 87(2)(b)'s hands behind his back to be handcuffed however § 87(2)(b) kept tightening up his arms with his hands balled into fists. He was not waving his arms at this point, but was moving his head. Before he was handcuffed, § 87(2)(b) lost consciousness. His sister, § 87(2)(b) informed him that while he was unconscious, he was hit on the head with a flashlight, resulting in a cut on the back of his head. The hit from the flashlight then caused § 87(2)(b) to bang his head on the ground and incur another cut to the right side of his forehead. However in § 87(2)(b)'s initial phone statement, he stated that § 87(2)(b) had told him that an officer stomped on his head, not hit him with a flashlight. When § 87(2)(b) regained consciousness, he was in a patrol car with PO Pralgo, PO Donaldson, and Sgt. Martinez, being transported to the 75th Precinct stationhouse.

§ 87(2)(b) requested medical attention while at the 75th Precinct stationhouse. An unidentified officer (who will be referred to as PO1 for the rest of this summary) told § 87(2)(b) to "hold on," as he went to speak with another officer. Before PO1 could return with an answer, § 87(2)(b) was brought to Brooklyn Central Booking. § 87(2)(b) stated that PO1 was one of the officers who used physical force against him during the struggle; however he could provide no other details.

After being released on § 87(2)(b), § 87(2)(b) went to § 87(2)(b) to check up on his injuries. The physician found nothing wrong with § 87(2)(b) and only provided alcohol pads for his cuts. There were no prescriptions filled or other examinations done.

Attempts to Conduct a Photo Array

§ 87(2)(b) was released from prison on March 6, 2013. The undersigned investigator called § 87(2)(b) six times between July 17 and July 29, 2013. With each call the investigator either left a voice message or informed § 87(2)(b)'s relatives to have § 87(2)(b) call the CCRB. A please call letter was mailed to § 87(2)(b) on July 30, 2013, and was not returned to the CCRB by the United States Postal Service. The investigator reached § 87(2)(b) on October 11, 2013, and scheduled him for a photo array at the CCRB on October 15, 2013. However, he missed the appointment without giving the investigator any prior notification. A missed appointment letter was mailed to § 87(2)(b) on October 16, 2013, which has not been returned to the CCRB by the United States Postal Service.

Attempts to Contact Civilians

§ 87(2)(b) did not have the last names or any contact information for his five friends, § 87(2)(b), and § 87(2)(b). As such, no contact attempts to them could be made.

§ 87(2)(b) and § 87(2)(b) had scheduled appointments at the CCRB for September 11, and October 29, 2012. They missed both appointments without prior notification of their intended absence. § 87(2)(b) also had scheduled to appear at the CCRB on September 14, and October 1, 2012. She too missed both appointments without prior notification of her intended absence. Two missed appointment letters were mailed to § 87(2)(b) and § 87(2)(b) each on the days of their scheduled appointments. None of those letters were returned to the CCRB by the United States Postal Service.

No contact information for § 87(2)(b) could be obtained, even after Inv. Evelis Otero had conducted searches of Whitepages.com, COLES Directory, New York State

Department of Motor Vehicles, and the Lexis-Nexis database on August 30, 2012. Two please call letters were mailed to § 87(2)(b) on August 27 and October 1, 2012, both of which were returned to the CCRB by the United States Postal Service with the reason that there is “no such number.” Both Inv. Otero and the undersigned investigator have not been able to contact § 87(2)(b)

NYPD Statements:

Subject Officer: SGT. ROBERT MARTINEZ

- *Sgt. Martinez was § 87(2)(b) old at the time of the incident. He is a Hispanic man, who is 6'1" tall, weighs 205 pounds, and has a bald head and brownish-green eyes.*
- *Sgt. Martinez worked between the hours of 9:56 p.m. on July 20, 2012, and 6:40 a.m. on July 21, 2012, as the 75th Precinct anti-crime supervisor. He was in plainclothes, driving in unmarked vehicle 202, and partnered with PO Anthony Donaldson and PO David Pralgo.*

Memo Book

Sgt. Martinez's memo book entries pertaining to this incident state verbatim (enc. F-1 – F-3) that “at 1:50 a.m., responded to Montauk Pitkin and Belmont in regards to 10-10 man with a gun. At 2:51 a.m., PO Terepka has 2 under male perpetrator did violently confront officers and did resist arrest.”

CCRB Statement

Sgt. Martinez was interviewed at the CCRB on July 10, 2013 (enc. F-4 – F-6), and his statement is summarized below.

On July 21, 2012, at around 1:50 a.m., Sgt. Martinez responded to Montauk Avenue between Pitkin and Belmont Avenues in Brooklyn, where a number of other police vehicles were already present (he could not recall how many). PO Terepka and PO Minardi had also arrived around the same time. As Sgt. Martinez walked up the street to investigate, an unidentified older man tried to get his attention by whispering, “One of those guys put something down by the tree over there, and one of the girls picked it up.” Regarding the girl, the older man described her as “heavy set, black, plaid shirt on.” Sgt. Martinez did not get any identifying information for this older man for purposes of discretion.

The older man had been referencing a group of 5-6 males that were stopped and talking with some uniformed police officers. There was no physical interaction between the males and officers. After continuing to walk down the block, Sgt. Martinez saw two black females walk out of a house. One of them, § 87(2)(b) whose name was determined via the investigation, fit the physical and clothing description that the older man had given. Sgt. Martinez asked the two females whether they picked anything up. The females were very compliant when all of a sudden, § 87(2)(b) from the group of males from before, charged towards Sgt. Martinez as if to strike him. § 87(2)(b) was flailing his arms, screaming and yelling “why the fuck are you talking to my girlfriend?” Sgt. Martinez saw § 87(2)(b) at the last minute, told him to “back off”, and grabbed § 87(2)(b)'s arms and pushed him back.

PO Pralgo, PO Donaldson, PO Terepka, and PO Minardi had all been standing near, and Sgt. Martinez stated that they all immediately went to restrain § 87(2)(b). The investigation, however determined that it was only PO Pralgo and PO Donaldson who did so. Sgt. Martinez did not take part in the restraining as that would have involved too many officers. § 87(2)(b) was

highly intoxicated, evidenced by the odor emanating from him. He was resisting arrest by pulling his arms away, putting his arms underneath him, and tensing up his arms to prevent PO Pralgo and PO Donaldson from moving them behind his back. § 87(2)(b) also at this point charged at the struggle, and PO Terepka and PO Minardi went to apprehend her. Eventually, PO Pralgo, PO Donaldson, and § 87(2)(b) all fell down to the ground in a struggle. Sgt. Martinez could not recall if § 87(2)(b) fell face forward or on his back. It took only a minute to handcuff § 87(2)(b) after which he was still cursing and acting belligerently.

Sgt. Martinez did not see an officer place § 87(2)(b) in a chokehold, or observe any officer punch, knee, or kick § 87(2)(b). § 87(2)(b) never lost consciousness and was brought up to standing position immediately after being handcuffed. Sgt. Martinez did not see any injuries on § 87(2)(b) or hear § 87(2)(b) complain of any injuries or that his breathing was restricted. He did not see any officer with a flashlight out, or any officer hit § 87(2)(b) with a flashlight or blunt object. Sgt. Martinez has dealt with § 87(2)(b) previously when the latter was caught for grand larceny. § 87(2)(b) had been perfectly compliant during that incident. § 87(2)(b) and § 87(2)(b) were both taken to the 75th Precinct stationhouse, however Sgt. Martinez could not recall by whom.

Subject Officer: PO DAVID PRALGO

- PO Pralgo was § 87(2)(b) old at the time of the incident. He is a white man who is 5'10" tall, weighs 240 pounds, and has brown hair and brown eyes.
- PO Pralgo was assigned to the 75th Precinct anti-crime with Sgt. Robert Martinez and PO Anthony Donaldson in unmarked car 202. He worked between the hours of 10 p.m. on July 20, 2012, and 6:35 a.m. on July 21, 2012, and was in plainclothes.

Memo Book

PO Pralgo's memo book entries pertaining to this incident state verbatim (enc. D-1 – D-2.) that at “1:45 a.m., dispute Montauk Pitkin-Belmont. At 2:51 a.m., 1 under by PO Terepka.”

CCRB Statement

PO Pralgo was interviewed at the CCRB on July 15, 2013 (enc. D-3 – D-4). § 87(2)(g)

On July 21, 2012, at around 1:50 a.m., PO Pralgo answered a radio call about a large group fighting with a gun at Montauk Avenue between Pitkin and Belmont Avenues in Brooklyn. The street was blocked off, and there were around 30-40 civilians present. PO Pralgo, PO Donaldson, Sgt. Martinez, PO Terepka, and PO Minardi were the only officers in plain clothes at the incident.

An unidentified civilian told Sgt. Martinez that an individual had put a bag down on the floor, and a heavyset black female in a multi-colored shirt had picked it up, walked southbound down Montauk Avenue, and went inside somewhere with the bag. Within five minutes of walking down Montauk Avenue, Sgt. Martinez saw § 87(2)(b) who matched the physical description of the female, and spoke to her about the fight. Their interaction was calm and had not lasted for more than a minute before § 87(2)(b) charged at Sgt. Martinez. § 87(2)(b) who was highly intoxicated as evidenced by the odor on his breath, walked very aggressively and irately towards Sgt. Martinez. He pushed past PO Pralgo and PO Donaldson, who had been standing near Sgt. Martinez, screaming and cursing.

Upon seeing § 87(2)(b) coming towards him, Sgt. Martinez grabbed § 87(2)(b)'s arms and pushed him back, but this did not prevent § 87(2)(b) from charging at Sgt. Martinez again. PO Pralgo then grabbed § 87(2)(b)'s arms from the front to try and push him away from Sgt. Martinez. PO Donaldson was also trying to restrain § 87(2)(b) but PO Pralgo could not recall what his position was. § 87(2)(b) kept resisting by flailing his arms and refusing to let PO Pralgo and PO Donaldson hold onto his arms. Eventually § 87(2)(b), PO Pralgo, and PO Donaldson all fell onto the ground on their sides, and § 87(2)(b) was ultimately handcuffed on the ground. During this entire struggle, which lasted 15-20 seconds, PO Pralgo had issued the verbal commands "stop resisting." He did not put § 87(2)(b) in a chokehold, kick § 87(2)(b) or see any officer do so. He did not know if Sgt. Martinez had any further physical interaction with § 87(2)(b). As PO Pralgo and PO Donaldson walked § 87(2)(b) to a patrol car, § 87(2)(b) continued to curse and act irately.

§ 87(2)(b) never lost consciousness during the incident, nor did PO Pralgo hear § 87(2)(b) complain about his breathing being restricted. PO Pralgo had taken a small flashlight out at the beginning of the incident when he was searching for the alleged weapon, but had put it back in his pocket when he was dealing with § 87(2)(b). PO Pralgo never hit § 87(2)(b) with a flashlight, see any officer do so, or observe any injuries on § 87(2)(b).

Subject Officer: PO ANTHONY DONALDSON

- PO Donaldson was § 87(2)(b) old at the time of the incident. He is a white man who is 5'10" feet tall, weighs 195 pounds, and has brown eyes and brown hair.
- PO Donaldson was assigned to the 75th Precinct anti-crime with Sgt. Martinez and PO Pralgo. He worked between the hours of 10 p.m. of July 20, 2012, to 6:35 a.m. of July 21, 2012, in plain clothes, and in unmarked car 202.

Memo Book

PO Donaldson's memo book entries pertaining to this incident (enc. E-1 – E-2) state verbatim that "at 1:46 a.m., dispute involving firearm Montauk Pitkin to Belmont, UF-250 x 2. Refused. At 2:51 a.m., 1 under PO Terepka."

CCRB Statement

PO Donaldson was interviewed on August 6, 2013 (enc. E-3 – E-4). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

On July 21, 2012, at around 1:50 a.m., PO Donaldson responded to the incident location regarding a gang fight. At some point after arriving at the scene, an unidentified civilian approached Sgt. Martinez, informing him that a female who had walked down the block had possibly placed a firearm involved in the alleged dispute into her purse. Sgt. Martinez, PO Donaldson, and PO Pralgo approached § 87(2)(b) who matched the description of the female the unidentified civilian spoke of. PO Donaldson identified himself as an NYPD officer by showing his shield and verbally stating such. Behind § 87(2)(b) was a male, § 87(2)(b) who PO Donaldson had noticed a few times earlier at the incident, cursing and acting highly combative, saying "Fuck the police, don't talk to them." § 87(2)(b) had been cursing the entire time, however, when he saw officers approaching § 87(2)(b) he started cursing directly at Sgt. Martinez, PO Pralgo, and PO Donaldson. § 87(2)(b) had been about 15 feet away from § 87(2)(b) before the officers approached.

Sgt. Martinez was trying to conduct a stop with § 87(2)(b) when § 87(2)(b) suddenly charged towards the former, waving his arms violently around. Sgt. Martinez was not able to speak with § 87(2)(b) before the male interrupted and pushed him. PO Donaldson was a couple feet away from Sgt. Martinez and observed Sgt. Martinez grab onto § 87(2)(b)'s arms to apprehend him. PO Donaldson went to assist Sgt. Martinez, however he could not recall at what point he became involved in the situation and whether he was at all involved in the struggle. However, he did remember that when he handcuffed § 87(2)(b) the latter was chest down on the ground. § 87(2)(b) was resisting the entire time, and was still trying to violently pull his arms away while on the ground. He continued to curse at the officers, and PO Donaldson was able to smell a strong odor of alcohol off of him. PO Donaldson had used his flashlight during the incident while searching for the alleged firearm; however he never hit the male with the flashlight or see any other officer do so. PO Donaldson also did not see Sgt. Martinez or any officer place the male in a chokehold, or punch or kick the male. He did not observe § 87(2)(b) hit or kick any of the officers either. § 87(2)(b) was not injured and did not complain of any injuries as a result of the incident.

Witness Officer: PO RADOSLAW TEREPKA

- *PO Terepka was § 87(2)(b) old at the time of the incident. He is a white man, who is 5'11" tall, weighs 180 pounds, and has blonde hair and brown eyes.*
- *PO Terepka worked between the hours of 10 p.m. of July 20, 2012, to 6:35 a.m. of July 21, 2012. He was assigned to the 75th Precinct anti-crime with PO Minardi, in plain clothes, and in unmarked vehicle 393.*

Memo Book

PO Terepka's memo book entries pertaining to this incident (enc. G-1 – G-2) state verbatim that "at 1:46 a.m., backing sector on gun run, Montauk Avenue and Pitkin Avenue. § 87(2)(b) stopped in front of § 87(2)(b) arrested for discon. § 87(2)(b) arrested for § 87(2)(a) 160.50. "C" issued to § 87(2)(b) § 87(2)(b)"

Arrest Report for § 87(2)(b)

In the report, PO Terepka stated verbatim in the details section that "§ 87(2)(a) 160.50

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)" (enc. J-3 – J-5).

CCRB Statement

PO Terepka was interviewed at the CCRB on June 19, 2013 (enc. G-3 – G-4). § 87(2)(g)
§ 87(2)(g)

On July 21, 2012, at around 1:50 a.m., PO Terepka arrived at Montauk Avenue and Pitkin Avenue in response to a radio run of a person with a gun. He arrived with Sgt. Martinez, PO Minardi, PO Pralgo, and PO Donaldson. The only civilians outside on the street at the time were § 87(2)(b) and his girlfriend § 87(2)(b) both of whom looked agitated as if they had been in an argument, and both appeared intoxicated. PO Terepka recognized § 87(2)(b)

as he is known to the 75th Precinct for being violent and to carry a firearm. § 87(2)(b) also matched the description of the perpetrator with the gun, although PO Terepka could not recall what that description was. § 87(2)(b) had been standing next to § 87(2)(b) and the officers separated them by about 5-6 yards for questioning.

From the beginning, § 87(2)(b) was uncooperative till ultimately PO Terepka had to call for help to handcuff her. PO Terepka was solely dealing with § 87(2)(b) and only briefly caught a glimpse of § 87(2)(b) on the ground, struggling with officers. Because the glimpse was so brief, he could not describe any of the actions that were taking place. PO Terepka could not recall exactly which officers were dealing with § 87(2)(b) but believed that it might have been PO Donaldson. He stated that PO Mindardi was helping him with § 87(2)(b). After § 87(2)(b) and § 87(2)(b) were both handcuffed, PO Terepka performed a search of their names for active warrants, and discovered that § 87(2)(b) had a warrant for criminal contempt, and that § 87(2)(b) had an active order of protection against him.

PO Terepka did not recall seeing any other civilians around, and did not interact with any other civilians. He did not see any officer punch § 87(2)(b) or if any officer had his flashlight out, or if § 87(2)(b) complained of any injuries. PO Terepka transported § 87(2)(b) to the 75th Precinct stationhouse, and did not transport § 87(2)(b).

Witness Officer: PO GREGG MINARDI

- *PO Minardi was § 87(2)(b) old at the time of the incident. He is a white man, who is 5'7" tall, weighs 180 pounds, and has black hair and brown eyes.*
- *PO Minardi was working between the hours of 10 p.m. on July 20, 2012, to 6:35 a.m. on July 21, 2012. He was assigned to the 75th Precinct anti-crime unit with PO Terepka, was dressed in plain clothes, and driving in unmarked car 393.*

Memo Book

PO Minardi's memo entries pertaining to this incident state verbatim (enc. G-5 – G-6) that "at 1:46 a.m., dispute with guns/gang fight. At 2 a.m., arrived at scene at Montauk/Pitkin-Belmont. At 2:51, civilians arrested by PO Terepka."

CCRB Statement

PO Minardi was interviewed at the CCRB on June 28, 2013 (enc. G-7 – G-9). § 87(2)(g)

(g)

On July 21, 2012, at around 1:40 a.m., PO Minardi arrived with PO Terepka in front of § 87(2)(b). Right before they stopped the unmarked car, they observed a group of males and females walking southbound down Belmont Avenue. One of the females, § 87(2)(b) left the group and walked into a building right next to § 87(2)(b).

PO Minardi and PO Terepka exited their vehicle about the same time as Sgt. Martinez, PO Pralgo, PO Donaldson exited from their unmarked vehicle. Because Sgt. Martinez, PO Pralgo, and PO Donaldson were closer, they were the ones to talk with members of the group which included § 87(2)(b). PO Minardi was observing the situation from 10 feet away to see if there was any validity to the radio run.

Sgt. Martinez spoke with § 87(2)(b) and the other civilians for about a minute,

during which § 87(2)(b) was very loud and cursing. The entire group was intoxicated as PO Minardi discovered later by their odor. § 87(2)(b) was standing only inches from Sgt. Martinez, and made a motion of raising both his hands when PO Pralgo and PO Donaldson grabbed his arms to restrain him. At that moment, § 87(2)(b) exited the building, saw Sgt. Martinez interacting with § 87(2)(b) and ran towards Sgt. Martinez. Seeing § 87(2)(b) charging towards Sgt. Martinez, PO Minardi intercepted and stopped her a few feet away from Sgt. Martinez. § 87(2)(b) was violently resisting and intoxicated, so PO Minardi and PO Terepka spent a few minutes handcuffing her.

PO Minardi was focused on dealing with § 87(2)(b) so he did not observe much of the interaction Sgt. Martinez, PO Pralgo, and PO Donaldson had with § 87(2)(b). He did however recall § 87(2)(b) resisting the officers by refusing to give his arms for handcuffing. PO Pralgo, PO Donaldson, and Sgt. Martinez had grabbed § 87(2)(b)'s arms to try and get them handcuffed. When PO Minardi finished handcuffing § 87(2)(b) he turned around and saw § 87(2)(b) on the ground in handcuffs, with Sgt. Martinez, PO Pralgo, and PO Donaldson kneeling around him trying to pick him up. While dealing with § 87(2)(b) PO Minardi had heard an unidentified officer verbally command § 87(2)(b) to "Stop resisting, and give me your hands." PO Minardi did not observe any officer place § 87(2)(b) in a chokehold, kick § 87(2)(b) or hit § 87(2)(b) with a flashlight. He did not recall § 87(2)(b) ever losing consciousness, or complaining of any injuries. PO Minardi did not observe any injuries of § 87(2)(b) before or after the incident.

Witness Officers: PO GENINE O'NEILL and PO CHRISTINA O'CONNOR

- *PO O'Neill was § 87(2)(b) old at the time of the incident. She is a Hispanic woman, who is 5'8" tall, weighs 135 pounds, and has brown hair and brown eyes.*
- *PO O'Connor was § 87(2)(b) old at the time of the incident. She is a white woman, who is 5' tall, weighs 125 pounds, and has brown hair and green eyes.*

Memo Book entries

PO O'Neill's memo book entries for this incident state verbatim (enc. H-1 – H-4) that "at 1:45 a.m., firearm Montauk Pitkin-Belmont. At 1:52 a.m., Montauk handled by 75 Target Auto."

PO O'Connor's memo book entries pertaining to this incident (enc. H-7 – H-8) state verbatim that "at 1:45 a.m., dispute at Montauk Avenue (Pitkin to Belmont Ave). At 1:52 a.m., resuming patrol from Montauk handled by FTU Auto."

CCRB Statements

In their CCRB testimonies, PO O'Neill and PO O'Connor did not have any recollection of this incident.

Witness Officer: PO NICHOLAS MURO

- *PO Muro is a white man who is 6' tall, weighs 210 pounds, and has brown hair and eyes.*

Memo Book

PO Muro's memo book entries for the date of the incident (enc. I-1 – I-3) place him at 3333 Fulton Street, which is approximately five minutes away from the incident location.

Witness Officer: PO KURT KLENKE

- *PO Klenke is a white man, who is 6'0" tall, weighs 300 pounds and has brown hair and hazel*

eyes.

Memo Book

PO Klenke memo book entries for the date and time of the incident indicate that he was transporting prisoners to Brooklyn Central Booking (enc. I-6 – I-8).

Medical Records

§ 87(2)(b) received a physical examination at § 87(2)(b) (enc. J-1 – J-2) on § 87(2)(b), from which no abnormalities were found. The physician noted that there was no swelling, laceration, tenderness, or ecchymosis to the head, however there was a small abrasion to the forehead. § 87(2)(b)'s skin was noted to be intact and normal, and that § 87(2)(b) himself was completely alert and oriented.

§ 87(2)(b) was prescribed pain killers and discharged two hours after arriving at the hospital.

NYPD Documents

§ 87(2)(b) was prescribed pain killers and discharged two hours after arriving at the hospital

Arrest Photograph

The CCRB was unable to obtain § 87(2)(b)'s photograph since his arrest record has been sealed.

SPRINT Reports

This incident generated SPRINT report numbers § 87(2)(b) and § 87(2)(b) (enc. J-11 – J-13).

Report number § 87(2)(b) lists a female civilian having reported a potential gang-fight between six individuals, and stated that “All males have firearms, states weapons were displayed, no injuries, unknown description males.” The report also lists the officers assigned to patrolling sectors B and H within the confines of the 75th Precinct and an open designation vehicle from the same command as responding to the incident location. There is no clear indication in this report if a Field Training Unit or a “Target Auto” responded to the scene.

Report number § 87(2)(b) states that a male civilian stated “Undercover police is beating up his brother, unknown description of officers, male civilian states Belmont and Montauk outside...[and] officers knocked his cousin out” The male civilian’s name was § 87(2)(b) and his cousin was § 87(2)(b). There is no clear indication in this report if a Field Training Unit or a “Target Auto” responded to the scene.

Command Log

At 3:05 a.m., PO Terepka recorded § 87(2)(b)'s arrest (enc. J -6 – J-10), charging him with § 87(2)(a) 160.50. § 87(2)(b) had a “scratch to right cheek,” was intoxicated and physical force had been used at the time of his arrest.

§ 87(2)(b) was brought to Brooklyn Central Booking at 10:05 a.m. by PO Kurt Klenke, PO Jessica Arrubla, PO Frank Vera, and PO Diaz (first name uncertain).

Roll Call

The 75th Precinct's Tour 1 Roll Call on July 21, 2012 (enc. J-14 – J-19) revealed that PO O'Neill and PO O'Connor were assigned to patrol sectors H and I, while PO Muro and PO Kaminsky were assigned to patrol sectors B and C.

The roll call does not list a Field Training Unit or an assignment labeled as "Target Auto."

Stop, Question and Frisk report

According to the NYPD's Monitoring Analysis Section an electronic Stop, Question and Frisk report could not be located pertaining to this incident.

Handwritten Stop, Question and Frisk Log

A request for the handwritten Stop, Question and Frisk Log ere requested from the 75th Precinct, however there were none on file (M-5).

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- As of April 1, 2013, [§ 87(2)(b)] has not filed a Notice of Claim with the City of New York (enc. L-20), which is five months past the 90-day filing deadline.

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- This is the first CCRB complaint filed by [§ 87(2)(b)] (enc. A-11).

Subject Officers CCRB History

- Sgt. Martinez has been a member of the service for 15 years and there are five substantiated CCRB allegations against him (enc. A-1 – A-4):
 - In CCRB Case No. 200205713, regarding a discourtesy allegation, the Board recommended charges, and the NYPD imposed instructions.
 - In CCRB Case No. 200704280, the two allegations involved physical force, and threat of force. The Board recommended charges for both, however the NYPD was declined to prosecute for both.
 - In CCRB Case No. 201101407, the two allegations involved frisk and stop of person. The Board recommended command discipline for both, and the NYPD imposed instructions for both allegations.
- PO Pralgo has been a member of the service for 18 years, and there is one substantiated

CCRB allegation against him (enc. A-5 – A-8):

- In CCRB Case No. 200905114, regarding a physical force allegation, the Board did not provide a recommendation, and the NYPD declined to prosecute.
- PO Donaldson has been a member of the service for 7 years and there are no substantiated CCRB allegations against him (enc. A-10).

Conclusion

Identification of Subject Officers

Regarding the three officers who allegedly stopped and frisked § 87(2)(b) and his friends, while § 87(2)(b) provided a general description of them, the investigation could not identify these officers. SPRINT report number § 87(2)(b) generated for this incident indicates that the 75th Precinct officers who were patrolling sectors B and H responded to the incident location. According to the 75th Precinct's Tour 1 Roll Call, PO O'Neill and PO O'Connor were assigned to patrol sectors H and I, however neither could recall the incident during their interviews. PO Muro and PO Kaminsky were assigned to patrol sectors B and C, however upon interviewing these officers; the investigation was able to place them away from the incident location. Without more information the subject officer could not be identified. § 87(2)(g)

Sgt. Martinez, PO Pralgo, and PO Donaldson confirmed their direct physical interaction with § 87(2)(b). Although § 87(2)(b) stated that PO Terepka and PO Minardi had also participated in the struggle, he did not see either of them use any physical force against him, and all of the officers agreed that PO Terepka and PO Minardi were interacting with § 87(2)(b) not making physical contact with § 87(2)(b) § 87(2)(g)

During his sworn-statement, § 87(2)(b) alleged that an officer refused to obtain medical attention for him while inside of the 75th Precinct stationhouse. He could provide no details regarding this officer's pedigree other than stating that this officer was present during the initial incident and had allegedly used physical force against him. The investigator was not able to conduct a photo array with § 87(2)(b) and was not able to reach § 87(2)(b) any further for more information. § 87(2)(g)

Allegation Not Pleaded

§ 87(2)(b) alleged that PO Pralgo wrapped his right arm around § 87(2)(b)'s neck in a chokehold for 30 seconds. However, § 87(2)(b) affirmed that this did not restrict his breathing. § 87(2)(g)

Regarding the allegation that § 87(2)(b) was struck in the head with an unidentified object, possibly a flashlight, because § 87(2)(b) himself did not raise this allegation in his sworn-statement and because no other civilian statements were obtained, § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: In the vicinity of § 87(2)(b) in Brooklyn, officers stopped § 87(2)(b) and individuals.

Allegation B – Abuse of Authority: In the vicinity of § 87(2)(b) in Brooklyn, officers frisked § 87(2)(b) and individuals.

§ 87(2)(b) alleged that officers stopped and searched him and five of his unidentified friends.

As discussed in the officer identification section, the undersigned investigator interviewed PO O'Neill, PO O'Connor, and PO Muro as their assigned patrol sectors for the day of the incident appeared as having responded to the location on the SPRINT report number § 87(2)(b). PO O'Neill and PO O'Connor do not fit the physical descriptions of the subject officers that § 87(2)(b) provided, and both stated that they were not directly involved with the investigation. PO Muro's memo book entries and testimony placed him and his partner a different location during the incident.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation C – Force: In the vicinity of § 87(2)(b) in Brooklyn, Sgt. Robert Martinez used physical force against § 87(2)(b)

Allegation D – Force: In the vicinity of § 87(2)(b) in Brooklyn, PO David Pralgo used physical force against § 87(2)(b)

Allegation E – Force: In the vicinity of § 87(2)(b) in Brooklyn, PO Anthony Donaldson used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO Pralgo, Sgt. Martinez, and PO Donaldson used physical force against him without justification. It is undisputed that all three officers used physical force against § 87(2)(b). § 87(2)(g)

§ 87(2)(b) recalled that he was calmly walking towards PO Pralgo, Sgt. Martinez, and PO Donaldson, not saying anything, when all of a sudden PO Pralgo hit § 87(2)(b) in the face three times and wrapped his right arm around § 87(2)(b)'s neck, after which Sgt. Martinez swept § 87(2)(b)'s feet from underneath him, causing § 87(2)(b) to land on the ground. Afterwards, an unidentified officer kicked § 87(2)(b) four times, causing a cut to the left side of his face. While the officers were trying to handcuff § 87(2)(b) the latter kept tightening up his arms and resisting before he lost consciousness.

Sgt. Martinez, PO Pralgo, and PO Donaldson § 87(2)(g) are consistent with each other in describing how an intoxicated § 87(2)(b) charged towards Sgt. Martinez aggressively, screaming and cursing. Sgt. Martinez was at the time speaking with § 87(2)(b) and conducting a police investigation. When § 87(2)(b) would not back away after Sgt. Martinez commanded him to do so, Sgt. Martinez grabbed § 87(2)(b)'s arms to push him back and restrain him for handcuffing. PO Pralgo and PO Donaldson then immediately became involved in restraining § 87(2)(b) after which Sgt. Martinez no longer had any physical interaction with § 87(2)(b). While PO Pralgo recalled grabbing § 87(2)(b)'s arms from the front to push him away from Sgt. Martinez and that PO Donaldson was also trying to restrain § 87(2)(b), PO Donaldson could not remember whether he participated in the struggle. However both officers, and Sgt. Martinez, make clear that § 87(2)(b) was flailing his arms, refusing to let his arms be held, and resisting arrest. Eventually, according to PO Pralgo, § 87(2)(b), PO Pralgo, and PO Donaldson all fell onto the ground, and

§ 87(2)(b) was finally handcuffed as he lay face down on the ground. PO Donaldson recalled that it was he who handcuffed § 87(2)(b). Although PO Terepka and PO Minardi were focused on dealing with § 87(2)(b) they too observed § 87(2)(b) putting up resistance during the struggle. All of the officers denied § 87(2)(b) losing consciousness, being injured, or requesting medical attention. They also denied ever punching or kicking § 87(2)(b) or seeing any officer do so.

The arrest report and command log all consistently state that § 87(2)(b) was obstructing a police investigation and resisting officers during the incident, both of which he was charged with in his arrest.

Three days after the incident, on July 24, 2012, § 87(2)(b) attended § 87(2)(b) where, as he himself stated, the physician found nothing wrong with him. The physician did note though that § 87(2)(b) had “a small abrasion to his forehead.” The 75th Precinct’s Command Log also noted that § 87(2)(b) had a “scratch to his cheek.”

NYPD Patrol Guide Procedure 203-11 (enc. AA-1 – AA-2), states that officers can use minimum force necessary to effect an arrest of a violent or resisting individual (enc. AA-1 – AA-2).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation F – Abuse of Authority – Inside the 75th Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) alleged that an officer at the 75th Precinct did not obtain medical treatment for him. He did not provide any description of this officer, nor could he be reached for further description or a photo array. There were no civilian or officer witnesses to this allegation.

§ 87(2)(g)
[REDACTED]

Team: 3

Investigator: _____ Yanjiao Chen _____

	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date